

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

JOSE ORTEGA-DUQUE

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CIVIL NO. 17-1353 (PAD)

MEMORANDUM AND ORDER

Delgado-Hernández, District Judge.

Before the court is petitioner's *pro se* "... Initial Motion Under 28 U.S.C. §2255 (F)(3)" (Docket No. 1), asking the court to vacate, set aside, or correct his sentence, which his record counsel supplemented (Docket No. 4) and the government opposed (Docket No. 21). The motions were referred to U.S. Magistrate Judge Bruce J. McGiverin who, on November 7, 2018, issued a Report and Recommendation ("R&R") recommending that petitioner's motion be denied (Docket No. 23). To date, no objections have been filed.

The R&R is adopted in its entirety. The U.S. Magistrate Judge's findings, analysis and recommendation are supported by the record and the law. Accordingly, petitioner's motion at Docket No. 1 is DENIED and the petition DISMISSED. Pursuant to Rule 11 (a) of the Rules Governing Section 2255 Proceedings for the United States District Courts, "[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." The court may issue a certificate of appealability upon "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253 (c) (2). No such showing has been made here. Thus, the court will not issue a Certificate of Appealability. Judgment shall be entered accordingly.

SO ORDERED.

In San Juan, Puerto Rico, this 10th day of January, 2019.

s/Pedro A. Delgado-Hernández
PEDRO A. DELGADO-HERNÁNDEZ
United States District Judge